

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 491X)

BNSF RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN STEARNS COUNTY, MINN.

Decided: October 29, 2015

BNSF Railway Company (BNSF) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 0.45 miles of railroad line located between mileposts 80.66 and 81.11, in St. Joseph, Stearns County, Minn. Notice of the exemption was served and published in the Federal Register on September 30, 2015 (80 Fed. Reg. 58,810). The exemption is scheduled to become effective on October 30, 2015.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on October 5, 2015. In the EA, OEA states that it conducted a search of the National Geodetic Survey (NGS) Data Explorer tool and identified one geodetic station marker that may be located within the right-of-way. Accordingly, OEA recommends that a condition be imposed requiring BNSF to consult with NGS at least 90 days prior to conducting any salvage activities in order to identify any station markers that may be disturbed or destroyed by salvage activities, and to arrange for the possible relocation of any station markers.

In the EA, OEA states that the U.S. Fish and Wildlife Service (USFWS) comments that the northern long-eared bat, a federally listed threatened species, may occur in or near the project area. Further, OEA states that pursuant to Section 7 of the Endangered Species Act it has determined that the proposed abandonment would have no effect on the northern long-eared bat or any other federally listed threatened or endangered species. OEA states that in order to give USFWS an opportunity to review and comment on this determination, it is sending USFWS a copy of the EA recommending that a condition be imposed requiring BNSF to consult with USFWS regarding potential impacts to the northern long-eared bat or other federally listed threatened or endangered species.

OEA states that BNSF served the Minnesota Historical Society (State Historic Preservation Officer or SHPO) with a copy of the Historic Report. In response, the SHPO comments that the line is eligible for listing in the National Register of Historic Places (National Register). The SHPO also notes that it is unable to provide information regarding any other known historic properties in the absence of an Area of Potential Effect (APE) determination by OEA. OEA states that pursuant to Section 106 of the National Historic Preservation Act it has determined that no known historic properties included or eligible for inclusion in the National Register would be adversely affected within the APE of the proposed abandonment. However,

OEA states that in order to allow adequate time for the SHPO to concur or object to its finding of no adverse effect, it recommends that a condition be imposed requiring BNSF to retain its interest in and take no steps to alter the historic properties within the project area until completion of the Section 106 process.

Comments to the EA were due by October 20, 2015. In the Final EA, OEA states that it received comments from the SHPO in which the SHPO concurs with OEA's finding of no adverse effect on historic properties, pursuant to Section 106. OEA states that it concurs with the assessment and recommends that the Section 106 condition recommended in the EA not be imposed. Accordingly, the conditions recommended by OEA in the EA, other than the Section 106 condition, will be imposed.

This action, as conditioned, will not significantly impact either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on September 30, 2015, exempting the abandonment of the line described above is subject to the conditions that, prior to commencement of salvage activities, BNSF shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning any salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of any station markers by NGS; and (2) consult with USFWS to assess potential impacts to the northern long-eared bat or other federally listed threatened or endangered species and identify any appropriate mitigation measures.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.